

# City Council Minutes

**July 14, 2003**

The Council of the City of Milton-Freewater met in regular session on Monday, July 14, 2003 at 7:00 p.m. in the council chambers of City Hall.

The following members were present: Mayor Key, Councilors Saager, Lyon, Humbert, Woods, Records and Kelley and also Youth Representative Colahan. Staff members present were City Manager Delphine Palmer, Assistant City Manager Linda Hall, Police Chief Mike Gallaher, Public Works Superintendent Howard Moss, Finance Director Dave Richmond, Electric Superintendent Mike Charlo, City Planner Gina Hartzheim and Public Works Superintendent Howard Moss. Citizens present were Mike Onstot, Fred Breeding, Kathy Clough, Darrel Key, Margaret Key, Robyn Riggs, Roy Curtis, Chris Zacharias and Pat Thomson.

Members of the press present were Jeff Durham of the Blue Mountain Pioneer, John Liebhardt of the East Oregonian, and Kathy Korengal of the Walla Walla Union Bulletin.

PRESENTATION by Lyla Lampson. PETS began in November 2002 and was started by Lane Conwell. Ms. Lampson spoke with the Blue Mountain Humane Society and it became apparent that many animals in our area were being euthanized. Ms. Lampson gave statistics revealing a large percentage of non-previously owned animals being euthanized. In February of this year the two veterinarians in our area participated in a "Spay Day" where thirty-three (33) animals were neutered. Kennedy Mobile Veterinary gave back the proceeds for that day to PETS in the amount of \$1,200 to help promote this program. Over the course of a year, about 120 wild cats have been neutered. Ms. Lampson announced that the City had given \$250 for this program, and also added how much she appreciated this donation. Individuals have also helped with funding. In all, about 54% of cost has been covered by donations. Ms. Lampson asked the City to refer citizens to the PETS program and also the PETS911.com website. This website, after entering our areas zip code, has pictures of animals available for adoption and also explains the PETS program. Bonnie Vogan is responsible for the cartridge program, which the City is involved in, where used inkjet cartridges and laser toners are donated to the PETS program to recycle as a fundraiser. Ms. Lampson also said she would take donations of cat/dog food.

CONSENT CALENDAR ITEMS: Items on the consent calendar included minutes from the June 23, 2003 meeting. Councilor Kelley moved to adopt the Consent Calendar with discussed changes by City Manager Delphine Palmer and Councilor Woods seconded the motion which passed unanimously.

Mayor Key announced this was the opportunity for citizens to approach the council with items not on the agenda.

Robyn Riggs, 221 NW 6<sup>th</sup>, asked specifically what it takes to get a response from the City of Milton-Freewater regarding her letter dated June 5<sup>th</sup> and stated she believed her renter was being harassed. Ms. Riggs stated that Mike Onstot was not allowed on her property, yet he was there hauling vehicles off of her property. Ms. Riggs stated that the City had been involved and each

property owner had been informed to stay on their own property, but Ms. Riggs further asked if there would be any resolution for this and if individual attorneys needed to be involved. Councilor Humbert asked how long the cars had been parked there before being “red-tagged”. Ms. Riggs could not answer that. Councilor Humbert brought up a personal issue where his vehicle should have been repaired within in three weeks, but instead did not get repaired for up to nine months. It would have been possible that his vehicle could have been “red-tagged.” Ms. Riggs said this was a personal issue. Assistant City Manager Linda Hall said she recalled the letter which was given to the Code Enforcement officer on or about the last day she was employed after the job was deleted due to budget restraints. Ms. Hall said she has since asked Police Chief Mike Gallaher to research this. Ms. Hall further stated that there had been many responses to this issue and that Ms. Riggs’ earlier statement was an unfair judgment upon city staff.

Mike Onstot, 112 NE 2<sup>nd</sup>, stated he did the towing for the City of Milton-Freewater. Mr. Onstot further said that no vehicle is ever towed without a registered letter sent to the last owner. Also, after a vehicle is red-tagged, the owner has fifteen (15) days to respond before towing.

Kathy Clough, 220 NW 6<sup>th</sup>, stated that this whole ordeal with Mr. Onstot has been going on for several years.

City Manager Delphine Palmer stated that this situation had been going on for the last eighteen (18) months or so that she knows of, and that there were numerous police reports and also that the city attorney has been called on more than one occasion. The city attorney has advised of the limitations the city has and those limitations have trickled down to the police department as well. Ms. Palmer suggested to meet with the city attorney, police and management and revisit this issue. Ms. Palmer stated that we were doing as much as the city attorney said the City could do.

## NEW BUSINESS

ORDINANCE NO. 915 Establishing A Business License. Assistant City Manager Linda Hall gave the staff report stating that Council had asked staff to research the issue of implementing a business license fee following a previous discussion with council regarding a hotel/motel fee. Some citizens at that time were upset with the hotel/motel fee including the local motel owner who felt the fee would be discriminatory against her business in particular. An argument raised was that a hotel/motel fee was discriminatory and unfairly penalized our only motel. It was suggested that a business license fee would be more fair and uniform and would be equally distributed amongst all of our City’s businesses. Council agreed with this suggestion and directed staff to procede with the ordinance that is before council this evening. This ordinance is based on several model ordinances through the League of Oregon Cities after they performed a comprehensive survey of business license ordinances across the state of Oregon in December of 2001. There are three types of business license ordinances if a combination ordinance is established, which is what staff is suggesting this evening. One is a regulatory, which exists to ensure businesses are conforming to code and all regulations that a city council may want to impose. The second is a generating revenue source. This type of business license ordinance is designed to generate revenues for general fund programs which is returned back out into the

city. The ordinance before you this evening is a combination of both regulatory and revenue. While it raises revenue at staff's suggested rate of \$35.00 annually, it is far below other cities that are imposing the revenue ordinance. Examples are Ashland with fees of \$790.00 annually, Madras is \$40.00 annually, Medford is \$70.00 annually and our neighboring Pendleton has fees that range from \$200.00 to \$500.00 annually depending on the number of employees a business employs plus other factors. Ms. Hall said that to her recollection she did not believe the City had ever had any kind of business license fee, but instead regulated businesses through a zoning permit which usually surprises new business owners. It is rare that cities do not have a business license program. Because property taxes has been capped and several of our City's sources have been drastically reduced or eliminated, it is felt the City is forced to generate a revenue source with local business owners. As soon as this ordinance was publicized, Ms. Hall received phone calls with concerns of immediately raising the proposed fee to place us more in line with other Oregon cities. It is not staff's intention to be unfair or to gouge any of our City's business owners. Our fee would be the same as the City of Athena, which is the lowest in Oregon State. Athena is approximately 1/6 the size of Milton-Freewater. Another question asked was whether businesses would be charged immediately if council enacted this ordinance. Staff is suggesting, due the newness of this ordinance, that if council choses, we would start issuing a business license to new businesses, but existing businesses would not be charged the new fee until January 1, 2004. Business exemptions within this proposed ordinance include yard sales, babysitters, part-time day care providers, temporary laborers, owners of rental units who lease two or fewer units, non-profit organizations, City sponsored activities, businesses located outside the city and contractors. One councilor has stated he would like to include contractors within this ordinance which is at council's discretion. Ms. Hall feels this could be added as a contractor's fee, but does not feel that contractors fit in with the regulatory portion of this ordinance.

Councilor Saager stated he had had a couple of phone calls with the concern of raising this fee immediately. Councilor Saager explained what he believed, that fees could not be raised without the majority of council's approval. Councilor Saager asked if he was correct and Ms. Hall concurred.

Councilor Records stated he would like to see contractors included in this ordinance due to his experience with other cities.

Ms. Hall asked if council wanted contractors included within this ordinance or wanted contractors to have separate fees. Ms. Hall further stated that when surveying other cities, most cities have a separate fee for contractors and that fee is much more, beginning at \$95.00.

Councilor Humbert asked if there was a price suggested for contractors. Ms. Hall said that nothing at this time had been suggested for contractors.

Councilor Woods stated he would not want anyone running a small business out of their garage to have to pay the business license fee, and secondly, the concern that the City could deny a lawful business a license, therefore denying an individual an occupation. Another concern is the fine for violation at \$500.00 daily.

Ms. Hall said that one, a small business run from the home would fall under the Home Occupation permit and would be exempt under this ordinance. Second, the ordinance as written is very explicit about procedures for business owners, which is completing the form truthfully. If a complaint is lodged that suggests illegal business activity, then that would be investigated, but city staff would not spend time policing city businesses. If a business was determined acting illegally, then a license could be revoked. Denial would be rare under the ordinance as written. If a business became established that had not applied for a business license, city staff would work with that business owner to bring them into compliance and would even be cautious against issuing a late fee. Ms. Hall further stated that some citizens have asked what could happen if not in compliance with this ordinance or that, with the previous experience, the violation section was added to this ordinance. If a business owner should refuse to comply with the business license ordinance and are unwilling to comply, then the city will issue a citation to the business owner in municipal court and that may cost a business up to \$500.00.

Councilor Woods stated he did not like the penalty portion of the ordinance and did not like that the Planning Department could accept or deny based on like or dislike. Ms. Hall addressed this by saying that our city staff would not act in this manner, but rather have been criticized for acting just the opposite, that city staff has been too user friendly in the past. Ms. Hall further stated that the criteria for acceptance or denial in the proposed ordinance is very specific and the city would have to determine one or more of the reasons outlined in the ordinance before denial. If this procedure by city staff is not strictly observed, then the city becomes liable. Ms. Hall added by saying that our city planner did not ask for this duty, but instead it is recommending that the city planner accomplish this task as she knows the zoning code and is also a wealth of information for new and even existing businesses.

Councilor Humbert asked if the process would be much the same as The Dalles or Pendleton, Oregon as the form is simple, and with check attached they hand the business owner a license.

Ms. Hall stated that the application would be less than a page; that the application would not need to be any longer.

Councilor Woods referred to Section 5.C. suggesting that the City Planner may determine a violation that did not result in a conviction. Ms. Hall gave an example of why this language was used in the ordinance, stating that a few years ago an adult novelty store moved in on North Main Street. The city council at that time were incensed because they did not want this kind of business on North Main, but there is nothing in the Oregon State constitution to prohibit it from happening. We have one of the most liberal interpretations of the constitution there is. This ordinance would give city staff an element of authority to prohibit this kind of business, but the proposed ordinance as written is not intended to eliminate other kinds of businesses. Eliminating businesses would only hurt the City.

Councilor Woods asked for clarification regarding one person with three businesses in the city. Ms. Hall stated that if an owner could show proof that he has three satellite businesses in the area and that they were related, only one business license would be required. If the three businesses were clearly separate, then three licenses would be required.

Councilor Saager asked if the business license application could be mailed with the utility bill before January 1, 2004 to reduce the number of business owners invading City Hall after January 1<sup>st</sup>. Councilor Kelley said it may be better to send out notices 6 to 8 weeks ahead much like the DMV office does. City Manager Delphine Palmer said the suggestions were good and thought this could be worked out. Ms. Hall said it may be better this first cycle to send a reminder out with utility bills and have them contact perhaps 2 or 3 different offices so the planning department is not flooded, but the suggestions are all well taken.

Councilor Woods said he wanted to see the violation penalty reduced from \$500.00 to \$100.00 and also see the review section more liberal, perhaps give 30 days. He would also like to see more time in the appeal process. Councilor Woods said he just didn't like the notion that someone could arbitrarily decide to accept or deny a business license. Councilor Woods further stated that he felt strongly that owning a business is a constitutional right, not just a privilege, and that any business, no matter how repulsive in nature, still has the right to exist. Councilor Kelley responded saying she understood Councilor Woods views, but she did not view owning a business as a privilege, but instead as a responsibility to the rest of the citizens within the city to ensure limited problems while doing business.

Councilor Woods added that he did not believe the city would do complete background checks on all business owners, especially since the fee is only \$35.00 annually. Councilor Kelley believed the point to be well taken and perhaps the fee should be more.

Councilor Humbert stated he thought the process would be to complete the license application and obtain the business license all in one step. However, if something was amiss on the application, then the city would complete a background check if deemed necessary. Ms. Hall concurred and further stated that with existing businesses the backgrounds will be performed after the complaint system has begun.

Youth Representative Ben Colahan asked if denial of license should come before council. Councilor Woods stated he would like to see a public forum for business owners.

Mike Onstot, 112 NE 2<sup>nd</sup>, stated his concern was that the ordinance does not clearly set the price at \$35.00 annually for any set time such as five (5) years. Mr. Onstot further explained that the state had doubled his license fees and his concern is that when the city needs more money, they in turn will increase the fee to accommodate. Mr. Onstot feels the ordinance should guarantee a set fee for a set time. Councilor Kelley responded saying there are no guarantees, that the state did not increase our fees, but instead deleted our revenue which has affected services locally. Mr. Onstot continued with his concern of no set time. Councilor Humbert said city fees had not been reviewed in 25 years and that he did not think that they would be reviewed in the near future. Also, he reiterated the fact that any increase would have to return to council.

Councilor Saager said that even if this came back to council next year, he knew Mr. Onstot and his friends would be at council meeting. Councilor Saager also stated that he had to purchase an annual pharmacy license from the state and they never guarantee the same price for next year.

Roy Curtis, Kila, Montana, expressed his concern saying that hypothetically, with 200 businesses and \$35.00 annually this would generate about \$7,000.00 and about 50% would be incurred to administrate the program. For \$3,500.00, the city will wound the city's businesses and when a bond issue comes to vote, they will not support any major programs.

Cliff Carson, son of Neighborhood Grocery owner, expressed his view saying that if the city charges the business license fee to all businesses, then every business that pays the fee should also be eligible for the URA Grant program.

Darrell Key, 618 County Road, expressed his concerns about our city's businesses stating that the City is adding an ingredient to businesses that may empty the store fronts all down Main Street. Mr. Key suggested a public hearing before council votes.

Councilor Humbert said that when business owners voiced their opinions regarding the hotel/motel fee, they were in opposition of the hotel/motel fee, but were in favor of a business license fee. Councilor Humbert said he agrees with the business owners that have already voiced their opinions, that council should implement the business license program, that the ordinance is written conservatively, that there are measures in place to prevent an arbitrary raise by city staff and that Ms. Hall has covered city liability well.

Assistant City Manager Linda Hall asked council if there would be any amendments to the ordinance as written this evening. After a brief discussion it was decided to leave the ordinance as written.

Councilor Humbert moved Ordinance No. 915, be introduced and full reading waived. Councilor Kelley seconded and a roll call vote was taken: Councilor Saager, yea, Councilor Lyon, yea, Councilor Humbert, yea, Councilor Woods, yea, Councilor Records, yea, and Councilor Kelley yea. Motion carried unanimously. The City Manager then read the ordinance by title. Councilor Kelley moved to adopt Ordinance No. 915 by title only and full reading waived. Councilor Humbert seconded and the motion carried unanimously. The City Manager read the ordinance by title. Councilor Records moved to adopt Ordinance No. 915, Councilor Saager seconded and a roll call vote was taken: Councilor Saager, yea, Councilor Lyon, yea, Councilor Humbert, yea, Councilor Woods, nay, Councilor Records, yea and Councilor Kelley, yea, Youth Representative Colahan, yea.

RESOLUTION NO. 1938 Amending User Fees. Councilor Kelley moved to adopt Resolution No. 1938 Amending User Fees. Councilor Saager seconded the motion which passed unanimously.

UPDATE Braeburn Housing Addition. City Planner Gina Hartzheim said there were questions about the status of the Braeburn project and perhaps some misinformation has been about as well. The project was started with a request for annexation that the City Council reviewed in June of 2002. The advantage to have properties annexed into the city limits is the availability of city utilities. In 2002, council did annex this property into the city limits and as a result there were preliminary discussions with staff. There are several requirements to evaluate when discussing developmental property. Information must be provided not only at the city level, but

also county and state to meet their requirements. Early on there was a discussion about the proposed access to the property. The only existing access was the Elzora Road access which at this time was unimproved with a substandard Rose Street as well. The Fire Chief at that time felt that Elzora Street may not be sufficient as the only emergency access and asked if other alternative accesses could be explored. Based on that request, the architect for the property designed an emergency type access along Rose Street. This access would be for emergency type access only and would not be used by the public. On this basis the preliminary plat was submitted to the Planning Commission for review in February of 2003. The Technical Review Committee also reviewed the preliminary plat which committee consists of city staff members. The review determined compliance with the code necessary for different types of criteria required for the preliminary plat. During the Site Review discussion it was determined that perhaps an access through Eastside Road would be much more suitable than an access through Rose Street and that became their recommendation. The Planning Commission then held a public hearing on the access issue and the subdivision plat in March of 2003 where testimony was heard by several residents on Rose Street who expressed their concerns. The Planning Commission approved the preliminary plat with the condition of access being developed across the tracks onto Eastside Road and no access onto Rose Street, either pedestrian, alley, or vehicle—that Rose Street would be closed off. This has now gone to the Rails Division of the Oregon Department of Transportation (ODOT) which agency is responsible for any crossings over railroad tracks and will determine accessibility across the tracks. Several discussions and a physical site visit by the rails manager from ODOT was done. After these discussions and site review, a lengthy letter from ODOT, which council has a copy of, was received in April of 2003 and the contents determined the Eastside Road crossing did not meet the criteria for ODOT and was not feasible. The developer then asked the Planning Commission to review the amended plat based on the inability to provide access through Eastside Road and to access the property through Elzora Street with a looped-type of development. The Technical Review Committee convened to review the amended plat and discussed the ability to access this area with emergency vehicles through Elzora Street. The Fire Chief and the Public Works Superintendent discussed protecting the hydrants within the development and ensure availability of those hydrants in the development. It was determined this could be adequately accomplished without the Eastside Road access and that the existing street system could support the added traffic of the new development. In May of 2003, the Planning Commission held a public hearing where few citizens testified, but a discussion ensued regarding fencing along the south side of the development that the developer had agreed to provide. Concerns of the Rose Street access was discussed as well. The Planning Commission approved the amended plat in May of 2003. This new development would have 39 lots, with an estimated assessed property value of \$140,000.00 per lot.

This is now at an operational level with staff designing infrastructure, utility works, etc.

Rick Currin, CEO Horizon Project, said he was here to answer questions, but added that this property was within the urban growth boundary and is felt that it would be beneficial to add housing lots to the City of Milton-Freewater where there are few residential lots to build upon. Mr. Currin feels this is a win-win situation for both the City and also residents of the City.

Councilor Humbert said his concerns were the newspaper article that stated this development would be for low-income housing and also the fire access. Councilor Humbert felt those concerns had been answered this evening.

Mr. Currin stated that the housing in this development would be affordable housing which means those individuals and families who can afford to purchase a house. Mr. Currin explained the demographics of the Milton-Freewater area as well and based the development on those demographics. Mr. Currin then explained the affordable housing program. Councilor Woods questioned whether the tax base would be the full value or a reduced value. Mr. Currin said the tax base would be on the full assessed value of the property.

A discussion ensued.

Councilor Kelley asked Mr. Currin to explain what kind of mixed neighborhood this program would create with the self-help program integrated within the development. Mr. Currin said there were examples of this in College Place and that the houses fit nicely together within the neighborhood, but would have to wait to see how this develops.

Councilor Lyon asked how far the fencing would go. Mr. Currin showed this on a map.

City Manager Delphine Palmer said she was concerned with the newspaper article that stated “low-income housing” along with Councilor Humbert, because \$30,000 annual income is not low and \$140,000 housing could not be considered “low-income housing.” Ms. Palmer said she knew of one person from the city that would be applying and maybe more, but that this is a wonderful opportunity for families to purchase affordable housing.

Mayor Key called for a break at 9:05 p.m.

### MANAGER’S REPORT

City Manager Delphine Palmer announced that the Espresso Shop is now open and is now in its second week. It’s a neat place to take a break and sit outside.

Ms. Palmer invited Finance Director Dave Richmond to address council on an issue brought to her attention during staff meeting earlier in the day. Mr. Richmond stated utility billings are read in four (4) cycles. Cycle 1 was read from June 30 through July 3, Cycle 2 this week. The statements went out for Cycle 1 and when the rates were inputted for July 1, the computer software could not determine that the readings included June. Therefore, utility customers in Cycle 1 were billed for the higher July rate for their June consumption. The solution will be to run all of Cycle 1 in another portion of the computer at the June rate and issue a credit for this usage on their next statement. Cycle 2, 3 and 4 will be prorated for the June and July usage. For example, if you had two weeks in July, the consumer will be charged two weeks at the old rate and two weeks at the new rate.

COUNCIL ANNOUNCEMENTS - There were none.



There being no further Council business, the meeting was adjourned at 9:20 p.m.